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REPORT
No. 97-676

FEDERAL-AID HIGHWAY IMPROVEMENT ACT OF 1982

DECEMBER 9 (legislative day, NOVEMBER 30), 1982.—Ordered to be printed

Mr. STAFFORD, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 3043]

The Committee on Environment and Public Works, to which was referred the bill (S. 3043) to authorize appropriations for the construction of certain highways in accordance with title 23 of United States Code, and for other purposes having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

GENERAL STATEMENT

The Federal-Aid Highway Improvement Act of 1982 is a significant milestone in the history of Federal highway legislation. For at least the past decade, investment in the Nation's highways has failed to maintain the highway system at a level that is conducive to safe and efficient transportation.

There are many reasons for this failure. Revenues going into the Highway Trust Fund have fallen far behind the escalating costs to construct and maintain the highway network. In some cases, continued emphasis on major new projects has resulted in insufficient investment for the repair and rehabilitation of existing roads. The general decline in performance of the economy has meant that State and local governments have had fewer dollars to commit to maintaining their road systems.

The provisions of the bill approved by the Committee recognize and address these problems. In conjunction with expected increased Highway Trust Fund revenues, the bill authorizes $12.2 billion for the Federal-aid highway program in fiscal year 1983, compared to $8.6 billion in 1982. That figure rises to $13.4 billion in fiscal year 1984, $14.3 billion in 1985, $15.1 billion in 1986, and $15.5 billion in fiscal year 1987, for a total 5-year program of $70 billion.

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While increased funding is provided for completing the Interst System and for new construction on other Federal-aid roads, seve provisions of the bill reflect the need to substantialy increase inve ments in the existing road system. One such provision requires tl at least 60 percent of funds apportioned to a State for its prima rural, and urban programs be used on existing highway facilities.

In addition, funds available for programs that address the rep needs of the highway system are increased substantially. For examp the program to rehabilitate and repair the Interstate System is i creased from a current level of $800 million per year to $1.8 billion fiscal year 1983 and to $3.4 billion in fiscal year 1987. The bridge placement and rehabilitation program will increase from a curre level of $900 million to $1.7 billion in fiscal year 1983 and to $2 billi in fiscal year 1987.

While the bill recognizes the need to increase total funding and emphasize rehabilitation to a greater degree than in the past, it esse tially continues the long and successful history of the Federal-a highway program.

The provisions in the reported legislation complement legislati considered earlier by the Committee which became Public Law 97–1 the Federal-Aid Highway Act of 1981. The 1981 Act recognized th completion of the Interstate System is a high priority. However, t 1981 estimated cost to complete the remaining 5 percent of the Inte state System and additional work on open-to-traffic segments w $53.8 billion. At that rate, the cost of completing the remaining po tions would exceed monies spent on the initial 95 percent of the Sy tem already built. Much of the existing system is in urgent need rehabilitation.

The Federal-Aid Highway Act of 1981 defined what is necessar for a connected, serviceable Interstate System which adequately pr vides for mobility, promotes interstate commerce and serves the n tional defense. It also provided for completion of the System in reasonable amount of time, at a reasonable cost, and recognized th need to shift resources to preserve the Federal Government's capita investment.

The 1981 Act also expanded the existing Interstate 3R program b adding a fourth R, reconstruction, and by including those items n longer eligible for Interstate construction funds. Funding for thi program was increased by almost 300 percent. When the Interstat Highway System was conceived, the intent was for the Federal Gov ernment to provide the major capital outlay to construct the Syste and the States would then have the responsibility for maintaining it As a significant portion of the System reaches its design life, it has becom.e evident that States do not have the resources to do both the major reconstruction work that now needs to be done on the Interstate System and maintain the other Federal-aid systems at an adequate level of service.

Building on the accomplishments of the 1981 Highway Act, the Committee considered highway legislation again this year. Authorizations for the Federal-aid highway program will expire on December 18, 1982. An extension of the Highway Trust Fund and an extension of the excise taxes accruing into the Fund must also be done in order to authorize the highway program beyond this time.

In addition to the extensive record compiled on the highway program by the Committee last year during hearings in Washington and throughout the country, the Committee held a hearing on the budget of the Federal Highway Administration, an oversight hearing on the Bridge Replacement and Rehabilitation program, a full day of hearings on S. 2315, the Federal-Aid Highway Act of 1982, and hearings on highway needs and costs allocation issues were held both in Washington and in Utah and Idaho this past summer.

It was evident from testimony received during these hearings that rising construction costs—a significant portion of which is inflation—have severely reduced the ability of States to construct and adequately maintain the Nation's highway system. At the same time this is occurring, much of the Interstate System is reaching its design life and requires major rehabilitation, many of the bridges in this country were built 40 to 50 years ago and need major repairs or replacement, and most of the other Federal-aid systems will require repaving or reconstruction during the next 15 years.

At both the State and Federal levels, revenues dedicated for use on the highway system have been declining because of more fuel efficient vehicles and reduced gasoline consumption. According to information recently released by the Federal Highway Administration, motorists traveled 1.164 trillion miles during the first nine months of 1981. This is an increase of 2.6 percent, or 30 billion more miles than were traveled during the same period in 1980. At the same time, motorists used 1.8 billion gallons less gasoline in traveling those 1.1 trillion miles. While this is a welcome achievement in fuel economy, it means a reduction in revenues coming into the Highway Trust Fund.

In view of declining revenues and increasing needs, most of the States considered measures to raise additional revenues for their highway program during the past two years. At the Federal level, careful consideration must be given to what role the Federal Government should have in this program and what responsibilities can be best carried out at the State and local level. Once this determination is made, the Federal Government must provide adequate revenues to carry out these responsibilities.

Both the Administration and the Congress recognized that the existing highway user tax structure is not generating sufficient revenues to meet the short- and long-term responsibilities of the Federal Government for the Federal-aid highway program. The Administration proposed an increase in highway user fees which will generate approximately $5.5 billion in additional revenues per year. Of this amount, the proposal directs that $1.1 billion be spent on transit capital projects. The Committee believes that the additional revenues intended for highways are necessary if the Federal Government is to carry out its responsibilities with regard to the highway program. The Committee also recognizes that a dramatic increase in Federal funds for this program—which has worked so well as a Federal State-local partnership—will create hardships for the States in immediately providing significantly increased matching funds. In order to enable the States to make full and immediate use of these additional funds, this legislation would permit them to use up to 100 percent Federal funds for all projects through October 1, 1983, and re-

pay the State matching share to the Highway Trust Fund by October 1, 1984.

The Committee believes the Federal interest lies first in completing the Interstate System as quickly as possible, and preserving the capital investment made in that system by the Federal Government. The Primary program is also important in providing mobility and aiding interstate commerce. Bridges represent a critical need which must be addressed. Of lesser Federal interest are the Rural, Urban, and Safety programs.

This legislation also provides a more flexible, stream-lined highway program which will give the States maximum flexibility in directing funds to their own highest priority highway projects.

Several small safety categorical grant programs, including Hazard Elimination, Pavement Marking, FHWA 402 Safety Grants, Highway-Railway Crossings, and Rail Relocation Demonstration Projects are consolidated into the Highway Safety Improvement Program. This will allow the States to determine the areas of safety which need particular attention in their own State.

A number of other small categorical grant programs have been eliminated and all projects in these categories are eligible for funding under the various larger Federal-aid categories. These include Economic Growth Center Development Highways, Great River Road, Safer-Off System Roads, Access Highways, Bicycle Program, and the Priority Primary Program.

Along with providing flexibility to the States by creating broader categories, the Committee recognizes the need to reduce Federal red tape which cause delays and added construction costs, and believes that the Congress and the Department of Transportation should continue to review how this can best be done without adverse effects on the environment.

Major Provisions

INTERSTATE SYSTEM RESURFACING APPORTIONMENT

The Interstate Resurfacing, Restoring and Rehabilitation program funds had been apportioned on the basis of 75 percent lane miles and 25 percent vehicle miles traveled (VMT) previous to the 1981 Act. The Committee recognized last year that vehicle miles traveled is a major indicator of highway use and related to highway deterioration, and therefore adjusted the apportionment formula to 60 percent lane miles and 40 percent vehicle miles traveled in legislation it considered last year.

The legislation considered by the Committee last year also expanded the Interstate 3R program by adding a fourth R—reconstruction. The compromise agreement of the House and Senate legislation further adjusted the apportionment formula to 55 percent lane miles and 45 percent VMT. S. 2315, the Federal-Aid Highway Act of 1982, included a provision to apportion the Interstate 4R funds on the basis of 60 percent lane miles and 40 percent VMT. The Committee has received testimony stating that other factors also affect deterioration on the Interstate System. With the increasing authorization levels for the expanded Interstate 4R program, the Committee believes it is very important that careful consideration be given to the Interstate 4R apportionment and that decisions made regarding this formula are based on the best information available before significant changes are made to this formula.

For this reason, the Committee is directing the Department of Transportation to undertake a study to analyze conditions and factors which contribute to the deterioration of the highway system. Such factors should include volume and mix of traffic, weight and size of vehicles, environmental, geographical, and meteorological conditions in various States and any other factors that may contribute to the deterioration of the Interstate System.

The Secretary should also consider such criteria as need, national importance, impact on individual State highway programs, structural and operational integrity, and any other relevant criteria, to determine an equitable method of distribution.

The study should also include an analysis regarding the availability of such information, and the ability to incorporate such information into an apportionment formula.

The Secretary is directed to report the results of the study along with legislative recommendations to the Congress no later than 6 months after the date of enactment of this provision.

BRIDGE REPLACEMENT AND REHABILITATION PROGRAM

Following the collapse of the Silver Bridge across the Ohio River in the late 1960's, the Congress undertook to correct the problem of deteriorating bridges. In 1970 the Congress enacted the bridge replace-

ment and rehabilitation program. This program continues to be an important element in our Federal-Aid Highway Program. In its Third Annual Report to Congress on the Bridge Program, the Department of Transportation estimated that it will cost over $47 billion to replace and rehabilitate all the deficient bridges in this country. Approximately one-half that cost is for rehabilitation and replacement of on-system bridges and one-half for off-system bridges.

Section 103(a)(6) provides an authorization of $1.7 billion for the Bridge Program in fiscal year 1983 and then authorizes $1.7 billion in fiscal year 1984, $1.8 billion in fiscal year 1985, $2.0 billion in fiscal year 1986, and $2.0 billion in fiscal year 1987. The Discretionary Bridge Program would be funded at $300 million per fiscal year through 1987.

The Department of Transportation has undertaken a National Bridge Inventory to fully document our national bridge needs. The inventory of on-system bridges has been completed by all States, while the off-system inventory is 98 percent complete.

Under the amendments made by section 13, funds for the Bridge Program will be apportioned on the following basis. All deficient bridges will be divided into four categories: (1) Federal-aid system bridges and bridges on public roads functionally classified as major collectors eligible for replacement, (2) Federal-aid system bridges and bridges on public roads functionally classified as major collectors eligible for rehabilitation, (3) Off-system bridges eligible for replacement, and (4) Off-system bridges eligible for rehabilitation. Recognizing a greater Federal responsibility for bridges on Federal-aid System, the square footage of deficient Federal-aid system bridges, and bridges on public roads functionally classified as major collectors, both those eligible for replacement and those eligible for rehabilitation, are multiplied by a factor of two. The square footage of deficient bridges in each category is multiplied by a national average unit cost on a State-by-State basis, and the total cost in each State is divided by the total cost of the Nation's deficient bridges to yield the apportoinment factors. No State will receive less than one-quarter of one percent nor more than nine and one quarter percent of the annual apportionment. Funds are available to the States during the year in which they are apportioned and for three additional years.

With this substantial increase in funding for this program, the Committee feels that greater attention must be given to the life expectancy of new bridges and new bridge decks. In view of the effect of maintenance costs on the budgets of Federal and State transportation agencies, structures should be designed to maintain their integrity throughout their design life. The design of these structures should utilize latest technology and bids prepared on the basis of alternative materials usage. A life-cycle analysis which includes salvage value should be an important consideration in material and product selection for replacement or rehabilitation of bridges with Federal assistance under this program.

A number of new, cost-saving techniques have been developed for highway and bridge repair. For example, one State has achieved substantial efficiencies and cost-savings in excess of 90 percent through implementation of concrete girder repair post-reinforcement/epoxy injection. Other significant benefits derived from this technique include a resulting upgrade of shear strength above the 1981 AASHTO

Design Standards and the continued availability of bridge structures to traffic while repairs are accomplished. In view of these demonstrated and documented successes, the Federal Highway Administration should work with the States to insure that such cost-saving repair and maintenance methods are utilized wherever possible.

The Secretary should assign priority in the use of discretionary program funds to the following bridge projects: MacArthur Bridge, Iowa; Talmadge Bridge, Savannah, Georgia; Warden Bridge and approaches, Great Falls, Montana; Sydney C. Lewis Bridge, Dover, Tennessee; Franklin Street Bridge, Peoria, Illinois; and Staley Viaduct, Decatur, Illinois.

Another important facet of the bridge program is continuation of the Bridge Discretionary Program under section 144(g). The bill increases the authorization to $300 million off the top of the bridge authorizations to fund high cost bridges over major waterways.

In 1978 the Congress recognized that many important bridge needs were not being met because States could not accumulate sufficient apportionments under the program to fund unusually high cost river or water crossings. The Discretionary Bridge Program was developed to address this problem, and the original Act made legislative history with respect to those bridges which Congress felt were worthy of consideration for funding under this discretionary program. Subsequent legislation continued to designate eligible bridges. This number has now grown to over 50.

The Committee believes that it is necessary to change the method of selection in order to better target the program toward those bridges with highest needs. Section 104 directs the Secretary of Transportation to develop a selection process for bridges eligible under section 144(g). This selection process is to include a formula which results in a rating factor based on the following criteria: sufficiency rating, average daily traffic, average daily truck traffic, defense highway system status and the state's unobligated balance of apportioned section 144 funds. Additionally, the Secretary shall give consideration to bridges that are closed to traffic or have 10 tons or less load restrictions. The language contained in section 104 also requires that eligible bridges will be those with a rating factor of 100 or less based on the criteria set forth above.

Those bridges which have already received leigslative history as eligible for funding shall continue to be eligible, and those which have received initial funding shall be given the highest priority consideration.

It is the expectation of the Committee that the development of this criteria and selection process will not require future action by the Congress to designate eligible bridges. This new proposal is designed to weigh those traffic and monetary factors which should be consideerd under such a discretionary program.

The Committee also recognizes the importance of maintaining and improving access for bicycle traffic. Bicyclists should, to the greatest extent possible, be able to reach all points served by the public road ssytem, and this access should be reasonably direct. The bridge replacement and rehabilitation program should serve to facilitate this objective. Bridge projects should anticipate the desire of cyclists to use these facilities and address their needs by enhancing good direct, bicycle access.

HIGHWAY SAFETY IMPROVEMENTS

The legislation establishes for the first time a single Highway Safety Improvement Program. This is accomplished by combining Hazard Elimination, Rail Highway Crossings, Rail Relocation Projects, Safer-Off-System Roads, and Highway Related Safety Activities. Also eligible for assistance under this category are pavement marking projects which are designed to delineate pavement and, therefore, make the roads safer.

To be eligible for assistance under this category, each State must develop and implement a continuous Highway Safety Improvement Program including procedures for planning, implementation and evaluation of Highway Safety Improvement Projects. Each State shall also inventory and analyze accident data which shall be used with other factors in determining a priority schedule for undertaking improvements at identified hazards. The Federal share for such activities shall be 90 percent, except for rail highway crossing projects which shall be the Federal share as provided in section 120(d) of title 23. Projects which are funded by existing categories which are consolidated shall continue to be eligible at the Federal share authorized when the project was initiated. Funds available to the States are to be apportioned to the States according to a formula based on population and road mileage.

Under this new combined safety program, projects which were eligible under prior categories may be funded alone without a requirement for its being in combination with other activities. Thus, pavement marking projects could continue to be eligible for Federal assistance as an individual type of project.

This section also provides that each State shall expend 35 percent of the funds apportioned to it for highway safety improvements for rail grade crossing projects authorized by section 203 of the 1973 Highway Safety Act. This minimum percentage of use of such funds may be waived by the Secretary of Transportation upon application of the State if the Secretary finds that the State has demonstrated that it has other safety projects of a higher priority.

The States are required to evaluate the results of the Highway Safety Improvement Program and to report annually to the Secretary. The Secretary is required to report annually to the Congress. The State's existing safety reports to the Secretary of Transportation under section 203 of the Highway Safety Act of 1973 for rail-highway crossings, the section 151 report on pavement markings and the section 152 report on hazard eliminations are repealed, as the comparable reports are now included under the one consolidated report provided by subsection (a), which contains a new section 151(h) on highway safety improvement program reports.

OTHER FEDERAL-AID SYSTEMS

During extensive hearings on highway legislation the past two years, witnesses representing a broad spectrum of highway interests were heard. One area in which a consensus emerged was the lack of flexibility available in the highway program for each State to address its unique needs. Testimony from State, county and city transportation officials indicated that a proliferation of small, specific programs

in addition to the prohibition on the transfer of funds between many categories prevented the best use of funds necessary to achieve an effective highway program.

This bill incorporates significant changes designed to streamline the highway program and allow the application of funds to those areas where they are most needed.

Section 109 of the reported bill changes the existing Federal-aid Urban System to a Federal-aid Urban program. This change allows for a wider range of transportation programs in urban areas. The importance of this is reflected in the fact that urban areas are experiencing increasingly greater problems in meeting highway as well as other transportation needs. The change will facilitate the achievement of goals relating to equity of programs, energy conservation, center-city revitalization, economic development, and reindustrialization. While Interstate and Primary System roads are not eligible for funding under this program, all other public roads in urban areas of over 5,000 population will be. Also eligible for funding under this program are transit capital and transportation system management (TSM) projects, projects previously categorized as Safer-Off-System, and consolidated safety programs incorporated by section 113 of this bill. The certification acceptance procedures as provided by section 17(a) of title 23, United States Code, may be utilized by the States for projects under the Urban Program as they were under the Urban System.

Section 110 changes the existing Federal-aid Secondary System to a Rural Program, combining the Secondary System, eligible projects now under the non-safety portion of the Safer-Off-System program, the Bridges on Dams program, and the Economic Growth Center program. This creates a consolidated rural program and ends the Secondary System designation. Other than Primary and Interstate System roads, all rural roads and those not in an urban area of over 5,000 population are eligible for funds under the new Rural Program.

Nonurbanized public transportation and the consolidated safety program incorporated by section 112 of this bill are also eligible for funding under the new Rural Program. Consolidating the many separate programs, terminating the Secondary system designation, and allowing the Secretary to streamline and simplify procedures for the Rural Program as they were for the Secondary System, will increase the flexibility for use of highway funds as well as benefit grant and project administration and management.

The reported bill allows for the more efficient use of funds by the States through several new transfer provisions.

Section 103 provides a minimum apportionment of one-half percentof Interstate construction funds to each State. If this amount exceeds a State's need for Interstate construction or its needs under the Interstate 4R program, the State may continue to transfer funds to the Primary System or the Rural and Urban Programs, as they may under current law. The States may also continue to transfer excess Interstate 4R funds to the Primary System.

Section 111 authorizes the transfer of funds between the Primary System and the Rural Program and between the Primary System and the Urban Program of up to 100 percent. Current law permits transfers of only 50 percent between these categories.

Section 122 permits the transfer of funds available under the Urban Program attributable to urbanized areas of 200,000 or more population from one urbanized area to another. Such a transfer would be subject to the approval of the Secretary of Transportation and the local officials of the area from which the funds are to be transferred.

Finally, the restriction on spending more than 35 percent of the Bridge Replacement and Rehabilitation funds on off-system bridges is removed. This legislation also permits the withdrawal of any Interstate segment, other than those added by specific legislation after March 7, 1978, requested by the affected Governors and local officials and approved by the Secretary.

CERTIFICATION DEMONSTRATION PROJECT

This provision is intended to determine whether Federal design standards are sufficiently flexible to address unique local transportation needs. In addition, this provision is intended to demonstrate whether any further reductions can be made in cost and construction time for Federal-aid highway projects while maintaining environmental protections and full public participation.

The Committee has received testimony that the typical highway project, in many cases with no substantial controversy, requires over seven years from project conception to initial construction. With scarce resources and with the effect inflation has had on the costs of construction, this delay must be reduced. A limited certification acceptance program is now available to the States. However, there has been limited participation by the States in this program. A further purpose of this section is to determine what changes are required to make certification acceptance more useful to the States and whether this concept can be expanded to include some of the non-title 23 requirements.

It has been brought to the Committee's attention that the State of Vermont has a model program to implement Federal requirements in this area in its Act 250 and has developed a project proposal concerning the Essex Circumferential Highway in Chittenden County which would demonstrate what could be achieved in cost and time savings. This project proposal also includes innovative design concepts which are responsive to the transportation needs of the local communities. This project should also fully implement the knowledge gained through the projects carried out under section 141 of the Federal-Aid Highway Act of 1976 and section 147 of the Federal-Aid Highway Act of 1978.

FEDERAL LANDS HIGHWAYS PROGRAM

This section consolidates a number of existing Federal lands categories into a consolidated Federal Lands Program. It is not the intent of the Committee to change current practices and requirements. Rather, the emphasis is on consolidating the Federal Lands Program for purposes of simplification and clarification and to reflect the existing division of responsibility between the Department of Transportation and the Department of Interior.

As part of the consolidation, particular attention is paid to parkways and park highways, to Indian reservation roads and bridges,

and to roads in areas administered by Federal land managing agencies.

Many of the highways and roads which would benefit from the consolidated Federal Lands Highway Program (Section 114) have been under construction for many years. Lack of funds have continued to prohibit their completion.

The Committee notes, for example, the Foothills Parkway in Eastern Tennessee. This parkway was authorized in P.L. 78–232, in 1944 and was a part of the "Circle the Smokies" route around the Great Smoky Mountains National Park. Only 21 miles of the planned 71 miles have been completed. Completion of the parkway would alleviate overcrowing on roads leading to and through the immensely popular park.

Construction can begin immediately on the remaining portion of the road. The State of Tennessee has been working with the Department of the Interior on a cooperative agreement regarding construction. The State has shown its support of the project by purchasing the remaining 50 miles of right-of-way and by deeding this land to the National Park Service.

The Committee believes that the consolidated Federal Lands Highway Program provides the Department of the Interior with the means to complete the Foothills Parkway and it encourages the Department to give completion of this parkway top priority in funding consideration.

With respect to Indian reservation roads and bridges, no changes are intended in the way the program is presently administered. The Committee believes that Indian road funds shall be spent in addition to, and not in lieu of, regular Federal-aid funding in Indian reservation areas.

Roads through areas administered by Federal land managing agencies must be carefully designed to protect important natural and cultural resources under the jurisdiction of those agencies. Such roads must be designed to blend in with the natural landscape. Because of the resources preserved in the Federal land management areas, and the type of tourist use in such areas, the roads in certain instances do not have to be constructed to normal highway standards.

Section 114 is intended to provide oversight responsibility to the Department of Transportation and increase coordination. It is not intended to reduce the responsibility of Federal land managing agencies to determine which roads need to be constructed and repaired nor to override the appropriate criteria to protect the important resources in such areas.

The Committee does not intend that section 114 will lead to unnecessary new road construction on Federal lands. Priority should be given to repairing existing roads and bridges. The availability of funding should not be a reason to propose projects that are unnecessary or can safely be completed at a later date.

GUARANTEED MINIMUM RETURN TO STATES

This section provides contract authority out of the Highway Trust Fund to assure that each State receives a minimum 85 percent return on the percent of its payments to the Highway Trust Fund.

Over the past 25 years, as the Interstate System has been constructed, some States have consistently received less highway funds than they have contributed to the Highway Trust Fund. As the apportionment of highway funds have decreased in many States, Congress has acted to assure certain minimum guarantees of funding to those States. The Committee believes that it is now time to recognize that a similar guarantee is essential to those States receiving less than they contribute to the highway program. Such a return is essential to assure that the Federal-Aid Highway Program can continue its progress in constructing and rehabilitating the Federal-aid highways.

The provision adopted by the Committee assures that each State will receive an allocation of funds equivalent to the amount necessary to bring the percent of its apportionment up to 85 percent of the percent of its payment to the Highway Trust Fund. For example, a State receiving 6 percent of highway apportionment but contributing 10 percent to the payments into the Highway Trust Fund would receive an additional 2.5 percent of the apportionment level in order to reach a 8.5 percent (85 percent of 10 percent).

These funds would be contract authority from the Highway Trust Fund. They could be spent for any of the Federal-Aid Highway Program categories at the discretion of the receiving State. The funds would be acquired from a separate pool of funds after the highway program funding levels are established and apportioned among the States. There would be no reduction in amounts apportioned to other States. These funds would not be subject to the obligation limitation. The calculation of the percentage of apportionment would be based on all of the categorical Federal-Aid Highway Programs apportioned under title 23 of the United States Code. The Federal Highway Administration currently prepares an estimate of the payments to the Trust Fund by the States; the Committee anticipates that this analysis will be used to determine the percent each State contributes to the Trust Fund.

ADVANCEMENT OF FEDERAL MATCH

Section 144 authorizes an advancement of the non-Federal share of projects funded under section 102, 103, or 106 of this Act for those States which are unable to meet the matching requirements for the additional funds provided in the reported bill. Information provided to the Committee indicated that 13 to 17 States may have difficulty in meeting matching requirements under the Federal-Aid Highway Program.

If relief is not provided to these States, many hundreds of millions of dollars in Federal highway funds will not be obligated in fiscal year 1983. The Committee bill provides that until September 30, 1983, a State, upon the certification of the Governor, may request up to and including 100 per centum as the Federal share of a project. The entire Federal share including any advance shall be deducted from the apportionment for the category under which project approval is sought. Therefore, if the entire project cost is $20 million including both Federal and State share, the amount deducted from the apportionment would be $20 million if the State requested 100 per centum Federal financing for the project.

Each State may not obligate, for this increased Federal share, more than the difference between obligational authority provided for fiscal

year 1982 and obligational authority for fiscal year 1983 provided in this legislation. This provision will insure that Federal funds are used to cover only those projects to be funded with the increased funds available under this bill because of new revenue available to the Highway Trust Fund. The States are expected to match the base fiscal year 1983 Federal-Aid Highway Program with Satte resources.

Subsection (d) requires repayment of apportionments advanced by September 30, 1984. Repayments will be deposited to the Highway Trust Fund and credited to the category of apportionments last made for which money so used was originally apportioned. If repayment is not made by September 30, 1984, the Secretary shall deduct from funds apportioned on October 1, 1984 and October 1, 1985 under section 104(b) of title 23, United States Code, except 104(b)(5)(A). The amount deducted shall be 50 per centum of the amount in each fiscal year of the amount needed for repayment and a pro rata share of each category for which funds were advanced.

VEHICLE WEIGHT LIMITATIONS

This provision amends section 127 of title 23, United States Code, which sets weight and width standards for vehicles operating on the Interstate System. Under this provision a national uniform vehicle axle and gross weight is established. These limits are set at 20,000 pounds for a single axle and 34,000 pounds on a tandem axle. The overall gross weight is to be limited by operation of the bridge formula in section 127 to a maximum of 80,000 pounds, except for nondivisible loads for which special permits have been issued under the grandfather clause of section 127 and applicable State laws.

Subsection (a) removes the so-called "Barrier States" which have not raised their weight laws following 1974 enactment of the Federal increase to 80,000 pounds. By requiring conformity among State weight statutes for vehicles operating on the Interstate System, a substantial burden on interstate commerce is removed. Under section 127 as modified, no funds authorized to be appropriated under section 108 of the 1956 Highway Act may be apportioned to a State which does not permit the operation of such vehicles at such maximum weights on the Interstate System within that State.

Subsection (b) clarifies that apportionments shall be available to those States which allow the operation of vehicles that the State determines could have been legally operated in the State on July 1, 1956, or in the case of overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Act of 1974. It has been brought to the Committee's attention that disputes have arisen between the Federal Highway Administration and the "grandfathered States" over vehicles in operation on July 1, 1956, or January 4, 1975.

Under this provision, States would have final determination as to the class of vehicles in operation. However, the Committee does not intend that this provision allow any increase in weights. This simply provides for a final resolution of disputes which have lead to State court decisions and State attorneys general opinions on the weights and classes of vehicles covered by the grandfather provision of section

127 as codified in title 23, United States Code, prior to date of enactment of the Federal-Aid Highway Improvement Act of 1982.

Under the provision requiring a uniform 80,000 pound gross weight on the Interstate System, reasonable access to terminals and points of shipment off the Interstate System should be granted by the States under State laws regarding vehicle weights.

DESIGN AND CONSTRUCTION QUALITY ASSURANCE STUDY

It has been brought to the Committee's attention that additional information is needed in the area of training and accreditation needs of State and local testing facilities responsible for the testing of construction materials. The Committee has requested the Secretary of Transportation, the National Bureau of Standards, the American Society for Testing and Materials, and any other interested groups to provide information on the training and accreditation needs of these facilities.

It is the understanding of the Committee that these organizations already have available much of this information. The Committee believes information should be gathered in areas including, but not limited to, design, processing, products, use, and systems. Within these areas the following issues should be examined: (1) highway use changes and opportunities for new materials, techniques, and methods, including systems for contracting, control, and testing; (2) laws and government practices which designers, contractors, and testing laboratories are now subject to; (3) standards, codes, personnel skills, and training programs, and other documentation for action prior to actual construction implementation; (4) actual design, manufacture, production, test, inspection, and use considerations as now performed, including personnel training, qualification, construction and maintenance; and (5) compliance and enforcement provisions in existence now along with recommendations on whether any changes should be made.

SECTION-BY-SECTION ANALYSIS

SHORT TITLE

SEC. 101. This section provides that the title may be cited as the "Federal-Aid Highway Improvement Act of 1982".

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

SEC. 102. This section authorizes $3.625 billion for fiscal year 1984, $3.8 billion for fiscal years 1985 and 1986, and $4.0 billion for each of fiscal years 1987 through 1990 for the Interstate Highway System construction program.

HIGHWAY AUTHORIZATIONS

SEC. 103. This section authorizes the appropriation, out of the Highway Trust Fund, of the following sums for fiscal years 1983, 1984, 1985, 1986, and 1987.

For the Federal-aid primary program, $1.7 billion for fiscal year 1983, $2.1 billion for fiscal year 1984, $2.4 billion for each of fiscal years 1985 and 1986, and $2.6 billion for fiscal year 1987; for the Federal-aid rural program, $0.7 billion for each of fiscal years 1983 through 1987; for the Federal-aid urban program, $0.8 billion for each of fiscal years 1983 through 1987; for forest highways, $50 million for each of fiscal years 1983 through 1987; for public lands highways, $50 million for each of fiscal years 1983 through 1987; for parkways and park highways, $75 million for fiscal year 1983 and $100 million for each of fiscal years 1984 through 1987; for Indian Reservation roads, $75 million for fiscal year 1983 and $100 million for each of fiscal years 1984 through 1987; for bridge replacement and rehabilitation (23 U.S.C. 144), $1.7 billion for each of fiscal years 1983 and 1984, and $1.8 billion for fiscal year 1985, and $2.0 billion for each of fiscal years 1986 and 1987; and for the highway safety improvement program, $0.4 billion for each of fiscal years 1983 through 1987.

Subsection (b) rescinds the unapportioned or unallocated balance of sums authorized by sections 4 and 5 of the Federal-Aid Highway Act of 1982.

Subsection (c)(1) provides a minimum apportionment of one-half of one percent of Interstate construction funds to each State, including Alaska. Whenever this amount exceeds a State's need for Interstate construction and Interstate resurfacing, restoration, rehabilitation, and reconstruction, the State may transfer the excess amount of the Primary System, the Rural Program, or the Urban Program.

Subsection (c)(2) provides for a Discretionary Bridge Fund of $300 million for each of fiscal years 1983 through 1987. Funds are available for a period of 4 years. Projects eligible for the funds are

those costing more than $10 million or those costing at least twice a State's annual bridge fund apportionment. A technical amendment is also made to 23 U.S.C. 144(g) to change the requirement of expenditures on bridges off the Federal-aid systems to a requirement of at least 15 per centum of expenditures on bridges on public roads not functionally classified as arterials or major collectors. Virtually all of the present Interstate, Primary and Secondary Systems and most of the Urban System consist of roads functionally classified as arterials and major collectors. This change would permit expenditure of up to 85 per centum of the total funds on Interstate, Primary, Secondary, and Urban Systems and Off-System arterials or major collectors. The effect of the technical amendment will be to leave the law substantially unchanged. This subsection also deletes the provision of 23 U.S.C. 144(g) which prohibits the expenditure of more than 35 per centum of a State's bridge apportionments off the Federal-aid systems. This deletion will permit discretion to the States to use more of their bridge funds off-system in accord with their own priorities.

Subsection (d) requires that 60 percent of the funds expended by the States on the primary system and on the urban and rural program must be for resurfacing, restoring, rehabilitating and reconstructing roads including upgrading of existing facilities. If these sums are in excess of the States resurfacing, restoring, rehabilitation and reconstruction needs on existing facilities, the State may so certify to the Secretary.

A number of categories including forest development roads and trails, public lands development roads and trails, park roads and trails, parkways, economic growth center development highways, Great River Road, safer-off-system roads, access highways, section 402 FHWA highway safety program, section 152 elimination of hazards program, rail-highway crossings, railroad-highway crossings demonstration program, and bicycle transportation and pedestrian walkways, will not receive new separate funding levels. Most of the projects now eligible in these categories will be eligible under the primary, rural, urban, and safety programs.

DISCRETIONARY BRIDGE CRITERIA

SEC. 104. This section directs the Secretary to develop a selection process for discretionary bridges authorized under section 144(g). This selection process is to include a formula resulting in a rating factor which is based on criteria including the sufficiency rating, average daily traffic, average daily truck traffic, defense highway system status and the State's unobligated balance of funds received under section 144. In addition, the Secretary is directed to give consideration to bridges that are closed to all traffic or that have a load restriction of 10 tons or less. Those bridges already eligible for discretionary bridge funds will remain eligible. After the issuance of a final regulation, eligible bridges will be limited to those with a rating factor of 100 or less, based on a scale of 0 to infinity.

INTERSTATE SYSTEM RESURFACING APPORTIONMENT

SEC. 105. This section establishes a new Interstate 4R apportionment formula. The new formula is based 60 percent on the ratio of

the number of lane miles on Interstate routes (other than those on toll roads not subject to a Secretarial agreement) each State has of the total lane miles in all States, and 40 percent on the ratio each State has of the total vehicle miles traveled on those lanes on Interstate routes (other than those on toll roads not subject to a Secretarial agreement). This section also establishes a minimum one-half of one percent guarantee of Interstate 4R apportionments for each State.

The Secretary is directed to study the procedures for distributing Interstate 4R funds to the States. The purpose of the study is to analyze current conditions and factors including volume and mix of traffic, weight and size of vehicles, environmental, geographical, and meteorological conditions in various States, and any other factors that may contribute to the deterioration of the Interstate system. The Secretary shall consider such criteria as need, national importance, impact on individual State highway programs, structural and operational integrity, and any other relevant criteria, to determine the most equitable method of distribution. The Secretary is directed to report the results of the study together with recommendations for legislation not later than 2 years after the date of enactment of this section.

INTERSTATE SYSTEM RESURFACING AUTHORIZATION

SEC. 106. This section provides authorizations for Interstate resurfacing, restoring, rehabilitation and reconstructing (4R), out of the Highway Trust Fund, of $1.8 billion for fiscal year 1984, $2.4 billion for fiscal year 1985, $2.8 billion for fiscal year 1986, $3.2 billion for fiscal year 1987, and $3.4 billion for fiscal year 1988. The requirement that Interstate 4R funds be used only on lanes in use for more than five years is discontinued. The transfer of 4R funds to primary apportionments is permitted when the 4R funds are excess to resurfacing and reconstruction needs.

INTERSTATE SUBSTITUTION AUTHORIZATION

SEC. 107. Subsection (a) authorizes, in addition to any funds authorized to be appropriated out of the General Fund, $500 million for fiscal year 1983, $600 million for each of fiscal years 1984 and 1985, and $650 million for each of fiscal years 1986 and 1987, out of the Highway Trust Fund, for substitute highway projects under 23 U.S.C. 103(e)(4). The effect of this authorization is to grant contract authority for substitute highway projects. Funds for mass transit substitute projects will continue to come from the General Fund of the Treasury.

Section 107(b) amends 23 U.S.C. 103(e)(4) to allow withdrawal of, and to include as eligible for the benefits of withdrawal and substitution, any Interstate routes including those in rural areas, except those routes or segments of routes added to the Interstate System by specific legislation after March 7, 1978.

Section 107(c) provides that no adjustment will be made for inflation after September 30, 1983, for any substitute project eligible for Interstate Transfer funds.

Section 107(d) prohibits withdrawal and substitution for routes or segments of routes added to the Interstate System by specific legislation after March 7, 1978.

Section 107(e) clarifies that 100 percent Federal share shall also apply to traffic control signalization projects which might be included as part of an Interstate substitution project under 23 U.S.C. 103(e)(4). Present law now permits 100 percent Federal share for projects for traffic control signalization funded from all other Federal-aid categories.

FEDERAL-AID PRIMARY PROGRAM

SEC. 108. This section would eliminate the priority primary program (23 U.S.C. 147). Any unobligated authority for the priority primary program, effective the date of enactment of this section, would be apportioned by the Secretary of Transportation in the same manner as primary funds and would thereafter remain available for obligation for the same period as if the funds were apportioned like primary funds. Pertinent sections of title 23, United States Code, would be amended to reflect the elimination of the priority primary program. This section would also permit the District of Columbia to receive a minimum one-half of 1 percent of each year's primary apportionment.

FEDERAL-AID URBAN PROGRAM

SEC. 109. This section would establish the Federal-aid urban program. The existing Federal-aid urban system would be abolished, allowing for a wider range of transportation programs in urban areas. The changes will facilitate the achievement of goals relating to equity of programs, energy conservation, center-city revitalization, economic development, and reindustrialization.

All public roads in urban areas would be eligible, except those on the primary system and Interstate System. Transit capital projects and transportation system management (TSM) projects would also be eligible as would projects previously categorized as safer-off-system. Consolidated safety programs incorporated by section 112 of this bill, the Highway Safety Improvement Program, are eligible for funding as part of the urban program.

The Certification Acceptance Procedures as provided by section 117(a) and the Secondary Road Plan procedures as provided by section 117(f) of title 23, United States Code, may be utilized by the States for projects under this program.

FEDERAL-AID RURAL PROGRAM

SEC. 110. This section amends section 103 of title 23, United States Code. It combines the secondary program and eligible projects now under the nonsafety portion of the safer-off-system program, the Great River Road program, the access to lakes program, the bridges on Federal dams program and the economic growth center program. This would result in a consolidated rural program and end the secondary system designation, thus making funds available for all rural and nonurban roads, other than primary and Interstate System roads. Projects eligible for funding would be expanded to include nonurban public transportation and projects previously categorized as safer-off-

system roads. Consolidated safety programs incorporated by section 112 of the bill, the Highway Safety Improvement Program, are eligible for funding as part of the Rural Program. Consolidating the funds for the above mentioned programs and terminating the secondary system designation would increase the flexibility for use of the funds as well as simplify grant and project administration and management.

The Certification Acceptance procedures as provided by section 117(a) and the Secondary Road Plan procedures as provided by section 117(f) of title 23, United States Code, may be utilized by the States for projects under this program.

TRANSFERABILITY

SEC. 111. This section amends 23 U.S.C. 104 to permit transfers between primary system and rural program apportionments and between primary system and urban program apportionments of up to 100 percent. Current law now permits 50 percent transfers between primary and secondary systems and between primary and urban systems.

HIGHWAY SAFETY IMPROVEMENT PROGRAM

SEC. 112. This section establishes a single highway safety improvement program by combining all safety categories—Hazard Elimination, Rail Highway Crossings, Rail Relocation Projects, Safer-Off-System Roads, and highway related safety activities under section 402.

Each State must develop and implement a continuous highway safety improvement program which includes procedures for planning, implementation and evaluation of highway safety improvement projects. As part of this program, each State must have a process for inventorying and analyzing accident, traffic, and highway data, for conducting engineering surveys of hazardous locations, sections, and elements; and for maintaining and implementing a prioritized schedule of projects for the improvement of the hazards identified. Any highway safety improvement project on a public road, except the Interstate, may be funded under this section. The Federal share under this section is 90 percent except for rail-highway crossing projects, in which case the Federal share is that provided in section 120(d) of title 23, United States Code. Any remaining unobligated balance of contract authority for carrying out section 402 with respect to highway-related safety programs will remain available for obligation, and will lapse not later than September 30, 1984. Highway safety funds are apportioned to the States according to a formula based on population and road mileage.

This section also provides that each State shall expend 35 percent of the funds apportioned to it for highway safety improvements for rail grade crossing projects authorized by section 203 of the 1973 Highway Safety Act. This minimum percentage of use of such funds may be waived by the Secretary of Transportation upon application of the State if the Secretary finds that the State has demonstrated that it has other safety projects of a higher priority.

One-half of one percent of the highway safety funds is made available to the Secretary of the Interior for carrying out section 151 safety activities on Indian reservations. The section 151 funds are available as if they were primary funds except where inconsistent

with the purposes of this section. In addition, primary system, urban program and rural program funds may be used for all consolidated safety projects.

The States are required to evaluate the results of the highway safety improvement program and to report annually to the Secretary. The Secretary is required to report annually to the Congress. The State's existing safety reports to the Secretary of Transportation under section 203 of the Highway Safety Act of 1973 for railhighway crossings, the section 151 report on pavement markings and the section 152 report on hazard eliminations are repealed, as the comparable reports are now included under the one consolidated report provided by subsection (a), which contains a new section 151 (h) on highway safety improvement program reports.

HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM APPORTIONED FUNDS

SEC. 113. This section provides for an annual apportionment starting in fiscal year 1983 based upon the following formula: All deficient bridges will be divided into four categories: (1) Federal-aid system bridges and bridges on public roads functionally classified as arterials or major collectors eligible for replacement, (2) Federal-aid system bridges and bridges on public roads functionally classified as arterials or major collectors eligible for rehabilitation, (3) Off-system bridges and bridges on public roads not functionally classified as arterials or major collectors eligible for replacement, and (4) Off-system bridges and bridges on public roads not functionally classified as arterials or major collectors eligible for rehabilitation. The square footage of deficient Federal-aid system bridges, and bridges on public roads functionally classified as arterials or major collectors, both those eligible for replacement and those eligible for rehabilitation, shall be multiplied by a factor of two. The square footage of deficient bridges in each category shall be multiplied by a national average unit cost on a State-by-State basis and the total cost in each divided by the total cost of the Nation's deficient bridges to yield the apportionment factors, except that no State shall receive less than one quarter of one percent nor more than 9.25 percent of the annual apportionment. These funds are available for 4 years.

FEDERAL LANDS HIGHWAYS

SEC. 114. This section would establish a Federal Lands Highway Program which would include forest highways, park roads, parkways, Indian reservation roads, and public lands highways. This section would change existing law in the following ways.

Current section 202(a) of title 23, United States Code, provides for forest highway authorizations to be apportioned for the forest highways in the several States according to the area and value of federally owned land within the national forests therein. Revised section 202 (a) would replace this apportionment formula with an allocation formula based on the relative needs of the various elements of the National Forest System as determined by the Secretary of Transportation in cooperation with the Secretary of Agriculture. The existing

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formula is obsolete because of the policies and directions mandated by renewable resource and land used planning legislation.

Revised section 22(b) would modify the existing allocation criteria (23 U.S.C. 202(b)) for forest development roads and trails to require that allocation of such funds be conistent with the renewable resource and land use planning for the various National Forests. As with forest highways, this change to the allocation criteria for forest development roads and trails is necessary to achieve compliance with renewable resource and land use planning legislation. Forest development roads and trails are not included as part of the new Federal Lands Highways Program as such roads and trails are restricted to administrative use by appropriate agencies. The Federal Lands Highways Program would include public roads only.

Revised section 202(c) is a restatement of the existing allocation criteria (23 U.S.C. 202(c)) for public lands highways with one addition. A new provision, consistent with recent renewable resource and land use planning legislation, would provide that preference be given to those highway projects which are significantly impacted by Federal land and resource management activities.

New sections 202 (d) and (e) would establish criteria for allocation of funds authorized for park roads, parkways and Indian reservation roads.

Currently, no criteria is statutorily prescribed for allocation of funds authorized for park roads, parkways and Indian reservation roads. The proposed allocation criteria for these classes of highways would require distribution of funds authorized for each such class be based on the relative needs of the various elements of each such class.

This section would eliminate the separate provisions of chapter 2 of title 23, United States Code, which provide for forest highways (section 204), park roads (section 206), parkways (section 207), Indian reservation roads (section 208), and public lands highways (section 209), and establish in lieu thereof a coordinated Federal Lands Highway Program under which each such class of Federal lands highways would be continued. The substance of the separate sections which provided for forest highways, park roads, parkways, Indian reservation roads, and public lands highways is essentially restated in the new section authorizing the Federal Lands Highways Program. The significant change that the new section would make is placing on the Secretary of Transportation the oversight and coordinating responsibility for Federal Lands Highways in order to ensure that such highways are treated under the same uniform policies as roads which are on the Federal-aid systems.

This proposal would not transfer jurisdiction of the Federal roads from the agencies that currently manage the respective Federal lands. Rather, it would involve DOT in coordination with the land managing agency, in the planning studies and program development of public Federal lands highways roads. The DOT would also provide design and construction assistance to the land managing agencies.

The Secretary must continue to determine that the Indian roads funds are spent in addition to, and not in lieu of, the States regular Federal-aid funds.

This section would also add to title 23, United States Code, a definition of the term Federal Lands Highways, amend the definitions of

the terms Indian reservation roads and park roads to include public roads only, and make technical changes to conform affected sections of title 23, United States Code, with the new Federal Lands Highways Program.

PROGRAM CONSOLIDATION

SEC. 115. Subsection (a) of this section repeals the Economic Growth Center Development program, National Scenic and Recreational Highway program, Access Highways to Public Recreation Areas on Certain Lakes program, Highway Crossing Federal Projects program, and the Railroad Highway Crossings Demonstration Project.

Subsection (b) provides that any unobligated balance of contract authority or unexpended balance of sums appropriated prior to enactment of subsection (a) will remain available for these programs under the conditions applicable prior to such enactment. The unappropriated balance of sums authorized prior to enactment of subsection (a) for the National Scenic and Recreational Highway program, Access Highways to Public Recreation Areas on Certain Lakes, and Highways Crossing Other Federal Projects is rescinded.

CARPOOL AND VANPOOL PROJECTS

SEC. 116. Subsection (a) amends section 120(d) of title 23, United States Code, to allow up to 100 percent Federal share on projects for the acquisition of vehicles for carpooling and vanpooling. The intent is to encourage more ridesharing by making it possible to acquire vehicles when local matching funds are not available.

Subsection (b) authorizes and directs the Secretary of Transportation to expend such sums as are necessary out of Federal Highway Administration administrative funds to carry out the national policy of promoting commuter modes of transportation which conserve energy, reduce pollution, and reduce traffic congestion. This is in lieu of a separate authorization as included in the Surface Transportation Assistance Act of 1978.

PUBLIC TRANSPORTATION

SEC. 117. This section amends section 142(a)(1), (b) and (f) of title 23, United States Code, by substituting "high occupancy vehicle lanes" for "bus lanes", "high occupancy vehicle passengers" for "bus passengers", and "high occupancy vehicles" for "public mass transportation systems". The overall effect is to expand the scope of the projects eligible for funding under section 142 to include carpool and vanpool vehicles and passengers. Also, it allows such projects to include eligible facilities for carpools and vanpools only, without the presence of buses or rail transit.

FRINGE AND CORRIDOR PARKING

SEC. 118. This section amends section 137 of title 23, United States Code, by adding a new subsection (f) which allows Interstate 4R funds to be used for projects providing preferential parking for carpools. It incorporates the same restrictions as other fringe parking

facilities with respect to being outside the central business district and within an Interstate corridor, and the primary purpose of reducing vehicular traffic on the Interstate highway. Other standard features concerning contracting and fees charged are also included.

EMERGENCY RELIEF

SEC. 119. Subsection (a) of this section amends subsection (a) of section 125, title 23, United States Code, to make clear that the term "catastrophic failure" means failures which are sudden, unexpected, and result from external forces, natural catastrophes in narrow or limited areas such as localized hurricane force winds, earthquakes, landslides, and the like. "Catastrophic failure", for purposes of this section, does not mean failure which is the result of structural deficiencies or physical deterioration. Bridges which are in imminent danger of collapse as a result of structural deficiencies or physical deterioration may be eligible for Federal funding under section 144 of title 23, United States Code, The Highway Bridge Replacement and Rehabilitation Program. Section 125 is intended to establish a fund which is to be held for sudden and unexpected emergencies and is not intended to be used for maintenance costs or for deficiencies, in, or the ordinary deterioration of, a structure. These latter expenses are expected to be met by the States or, to the extent a facility qualifies, with funds available under section 144 of title 23.

Subsection (a) of section 125 is also amended to delete the reference to bridges which have been closed to traffic between December 31, 1967 and December 31, 1970 inasmuch as the Committee understands that these bridges have been repaired or reconstructed and are now reopened to vehicular traffic.

Subsections (a) and (b) of this section further provide that all expenditures for emergency relief under 23 U.S.C. 125, whether past or future, shall come from the Highway Trust Fund and not from the General Fund of the Treasury. Section 125 of title 23, United States Code, now provides that 40 percent of emergency relief expenditures prior to the fiscal year ending September 30, 1978 are authorized from the General Fund of the Treasury.

Subsection (c) authorizes, from the Highway Trust Fund, $100 million per year for emergency relief projects.

Subsection (d) would amend 23 U.S.C. 125(b) to provide that expenditures for projects resulting from a single natural disaster or a single catastrophic failure shall not exceed $30 million in a State.

Subsection (e) would apply the amendment made by subsection (d) to natural disasters or catastrophic failures which the Secretary finds to be eligible for emergency relief subsequent to the enactment of this section.

Subsection (f) would amend 23 United States Code 120(f), which pertains to the Federal share for highway emergency relief projects. Under current law, the Secretary can increase the Federal share to 100 percent. Under this subsection, the Federal share would be limited to 75 percent, except for forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails and Indian reservation roads, which would still receive 100 percent Federal funding.

Subsection (g) would apply the provisions of 23 United States Code 120(f), as amended by the bill, to all natural disasters or catastrophic failures which the Secretary finds to be eligible for emergency relief subsequent to the enactment of the bill.

Subsection (h) makes technical amendments to reflect the fact that this bill replaces the secondary and urban Federal-aid highway systems.

BICYCLE TRANSPORTATION PROGRAM

SEC. 120. This section broadens current authority to allow Federal-aid highway funds to participate in a greater variety of projects to encourage bicycle transportation and to provide pedestrian facilities. It would allow States greater flexibility in developing federally assisted bicycle and pedestrian projects by (1) eliminating the requirement that bicycle or pedestrian projects be "on or in conjunction with highway rights-of-way"; (2) eliminating the limitation on the expenditure of Federal-aid highway funds for bicycle or pedestrian projects; and (3) specifically allowing Federal-aid highway funds to participate in nonconstruction projects that are expected to enhance bicycle safety and use. The Federal share for bicycle projects would be increased to 100 percent.

HIGHLAND SCENIC HIGHWAY

SEC. 121. This section would amend section 161(f) of the Federal-aid Highway Act of 1973, as amended by section 21 of Public Law 96–106, to remove a technical problem presently preventing the State of West Virginia from maintaining the Highland Scenic Highway, located partially within and adjacent to the Monongahela National Forest in the State. It would also allow local light truck traffic and limited commercial truck traffic on a permit basis only.

The Highland Scenic Highway was originally designed and constructed as a multi-purpose State highway on the Federal-aid Highway System. As such, it was maintained by the State until the passage of the Federal-aid Highway Act of 1973 which designated it as a scenic highway with portions limited solely to scenic and recreational use and passenger car use. The scenic highway designation precludes community service vehicles such as bread trucks, service trucks and farm trucks from using the highway and use of the road for National Forest management activities requiring use of trucks. This designation thus made the highway a limited service highway which precludes continued maintenance by the State as State law prohibits the expenditure of maintenance funds on limited service highways.

This amendment would correct this anomaly by modifying the vehicle limitation so that the State could maintain the road and, at the same time, protect the important recreational and scenic values of the highway.

ALLOCATION OF URBAN FUNDS

SEC. 122. Existing law permits transferability between urban and primary system funds. However, it does not permit transfer of funds allocated out of urban system funds attributable to urbanized areas of 200,000 or more population from the allocation of one urbanized

area to that of another urbanized area or to an urban area. This amendment to section 150 of title 23, United States Code, would permit the transfer of such attributable funds to the allocation of another urbanized area in the State or to any other urban area in the State. A transfer, requested by the State, would be subject to the approval of the Secretary and the local officials of the urbanized area from which the funds are to be transferred. The proposed transfer provision would enhance the capability of the States and local governments by giving them more flexibility in programing projects, setting priorities, and utilizing scarce financial resources.

CERTIFICATION ACCEPTANCE

SEC. 123. This section amends 23 U.S.C. 117 to provide for: (1) the application of certification acceptance to the physical construction phase of Interstate 4R projects; (2) the elimination of the requirement to make a final inspection on every project under both the certification acceptance and secondary road plan programs; and (3) the extension of coverage under the secondary road plan program to: "projects, as defined by the Secretary and which are not on the Interstate System." These changes in no way would relieve the State highway departments from the requirement of entering into formal project agreements with the Secretary pursuant to section 110 of title 23. Certification acceptance would be available to Interstate restoration projects once they reach the construction phase; thus it would apply only to those work areas such as time extensions, construction contract change orders, assessment of liquidated damages, etc., which take place subsequent to the actual construction project being authorized. The amendments would make both concepts more attractive to the States because of the expanded coverage and the reduction in Federal involvement and redtape.

DEFENSE ACCESS ROADS

SEC. 124. Section 210(c) of title 23, United States Code, provides for the use, up to $5,000,000, of any funds appropriated under the Act approved October 16, 1951 (65 Stat. 422) for highways in military training and maneuver areas. In 1958, Public Law 85–767 (72 Stat. 885), which revised and codified prior highway legislation as title 23, United States Code, repealed other Acts and portions of Acts. In addition, the second Supplemental Appropriations Act of 1957 (including the Bureau of Public Roads under the Department of Commerce) rescinded, effective June 20, 1957, all unexpended appropriations from prior laws. (Public Law 85–855). Thus, there are no current highway appropriations from which any part of $5,000,000 could be made available for the construction, maintenance, and repair of maneuver areas.

In 1955, the Office of Management and Budget directed the Department of Defense to budget for defense access roads. Since 1957, each military department has budgeted separately for defense access roads. By direction of the Assistant Secretary of Defense (Comptroller), maintenance and repair of public highways used for maneuvers will be accomplished from funds made available by the appropriate mili-

tary department; but in order to insure prompt repairs, military regulations provide that the Commander, Military Traffic Management Command, may authorize the Federal Highway Administration to temporarily use available access road funds, pending payment by the military department concerned from its operation and maintenance funds. Since funds for the repair of maneuver road damage are not available from highway appropriations acts, but are available from defense appropriations acts, the opening clause is misleading and should be amended to reflect current law and practice.

This amendment to section 210(c) of title 23, United States Code, has been coordinated with the Military Traffic Management Command.

MAINTENANCE

SEC. 125. Subsection 116(b) of title 23, United States Code, requires maintenance agreements between a State without authority to maintain a project constructed "on the Federal-aid secondary system, or within a municipality," and the appropriate county or municipal officials. This section would amend subsection (b) to require maintenance agreements when a State does not have authority to maintain any project.

This section would amend subsection 116(c) of title 23, United States Code, to permit the Secretary to withhold project approval for projects in specific areas on one or more of the Federal-aid Systems or programs within a State, or for the entire State, where the Secretary finds that a project is not being properly maintained. Under present law, the Secretary must withhold project approval for the entire State for all projects when a single project is not being properly maintained. Present law does not represent a practical enforcement sanction. Stopping all project approvals in an entire State could involve massive disruption of planning and considerable economic waste. The amendment provides a practical enforcement sanction which should be an effective tool in enforcing maintenance.

Subsections (b), (c), (d), (e), (f), and (g) transfer maintenance provisions from 23 U.S.C. 109 to 23 U.S.C. 116.

CONSTRUCTION

SEC. 126. Title 23, United States Code, now requires that the Secretary inspect each highway construction project. This amendment would remove that requirement. The Secretary would establish procedures for inspecting and approving construction but would not have to inspect each project.

This subsection amends section 113 of title 23, United States Code, to clarify the application of the Davis-Bacon Act (40 U.S.C. 267a) to 3–R work on the non-Interstate highway network. The amendment strikes the word "initial" before "construction" in the first sentence.

This clarification was necessary to correct an interpretation of section 113(a) by the Federal Highway Administration which stated that Davis-Bacon did not apply to 3R work. Under the language of this subsection, the Act applies to all construction, rehabilitation, resurfacing, or reconstruction work carried out under the Federal-aid highway program.

RESEARCH AND PLANNING

SEC. 127. This section would amend 23 U.S.C. 307 to confirm the legal basis for pooling 1½ percent highway planning and research (HPR) funds into a single fund and to establish a uniform period of availability, and a standard Federal matching share. This section also clarifies that the States may use these funds for study, research and training on engineering standards and construction materials, including evaluation and accreditation of inspection and testing.

NONDISCRIMINATION

SEC. 128. This section amends section 140 of title 23, United States Code, to assure that equal employment opportunity must be provided without regard to sex; to authorize the Secretary of Transportation to conduct and finance minority business enterprise training programs and assistance programs; and to authorize the use of $10 million per fiscal year from the sums apportioned under 23 U.S.C. 104(b) to conduct and finance minority business enterprise training programs and assistance programs. These training and assistance programs are specifically provided for the benefit of women and minorities.

INTERAGENCY AGREEMENTS

SEC. 129. This section adds a new section to title 23, United States Code, under which the Secretary of Transportation would be required to enter into memoranda of understanding with other Federal agencies to coordinate the various environmental compliance reviews that apply to Federal and Federal-aid highway projects. The purpose of such memoranda is to minimize, to the maximum extent practicable, duplication, needless paperwork, and delays in approval of projects under title 23, United States Code. This section is intended to reinforce the national policy on minimization of redtape set forth in section 101(e) of title 23, United States Code, by consolidating environmental compliance procedures to the greatest extent possible in a single project development process to be coordinated by the Department of Transportation.

OBLIGATION LIMITATION AND ALLOCATION FORMULA

SEC. 130. This section establishes an obligation limitation of $12 billion for fiscal year 1983, $12.8 billion for fiscal year 1984, $13.6 billion for fiscal year 1985, $14.5 billion for fiscal year 1986, and $14.9 billion for fiscal year 1987, excluding emergency relief projects, rehabilitation of a federally-owned bridge, and a highway construction project at Union Station. The obligational authority for each year would be allocated to the States in the same ratio in which sums to be appropriated to the States for Federal-aid highways and highway safety construction are apportioned or allocated. Collectively, the States can obligate no more than 25 percent during the first quarter of fiscal year 1983.

In revising the redistributions each year, the Secretary shall give priority to those States which have experienced substantial propor-

tional reductions in their apportionments and allocations because of statutory changes under this Act and under P.L. 97–134.

After passage in December 1981 of P.L. 97–134, which revised the Interstate Cost Estimate, many States experienced substantial cuts in their Interstate allotments. Similarly, changes under the Committee bill, including elimination of the priority program, will create reductions to some States' programs.

Consequently, the Secretary shall first consider providing additional funding during the August 1 redistribution to those States which have experienced such reductions, and are able to obligate additional funds.

CERTIFICATION OF STATE PROCEDURES

SEC. 131. This section authorizes the Secretary of Transportation to carry out a project in cooperation with the State of Vermont, which will demonstrate the feasibility of extending the coverage of State certifications under section 117(a) of title 23, United States Code. The purpose of the demonstration project is to determine to what extent States are able to carry out the requirements of Federal law, both title 23 and non-title 23 requirements, and to determine what kinds of problems may be encountered under such procedures. The project shall also document those areas where savings can be made in time and paperwork without adverse impacts on public participation or the environment.

ALASKA HIGHWAY

SEC. 132. This section amends section 218(a) of title 23, United States Code, to allow the State of Alaska to use its apportioned Federal-aid highway funds on the continued construction of the portions of the Alaska highway located in Canada.

Since Congress authorized the construction of the Alaska highway in the Federal-aid Highway Act of 1973 (Pub. L. 93–87, appropriated funds have been obligated for the project and work is now completed or underway. However, no funds were appropriated in the 1979–1982 United States budget.

The current provisions of title 23, United States Code, do not permit a State to expend its Federal-aid funds in a foreign country. This section would permit Alaska to use its Federal-aid highway funds for the construction of the Alaska highway in Canada, as provided in section 218.

TERRITORIAL HIGHWAY PROGRAM

SEC. 133. Subsection (a) of this section repeals section 215 (Territorial Highway Program) of title 23, United States Code.

Subsection (b)(1) of this section provides that outstanding funds authorized or appropriated for carrying out repealed section 215 shall remain available for obligation under the conditions applicable prior to such repeal.

ACCELERATION OF BRIDGE PROJECTS

SEC. 134. This section repeals the acceleration of bridge project programs which provides special funding for the U.S. Grant Bridge in

Kentucky and the East Huntington Bridge in West Virginia. Funds authorized for this program would remain available for obligation for two years under the same conditions which existed prior to the repeal of this section.

LAKE ROAD EROSION DEMONSTRATION

SEC. 135. This section authorizes the Secretary of Transportation in cooperation with the State of North Dakota to carry out projects in and around Devils Lake, North Dakota which demonstrate the use of construction techniques which will prevent wave erosion on roadways which cross closed basin lakes at grade level. Because of the emergency nature of this work the State of North Dakota has already begun work on some roads, the Secretary is authorized to reimburse for such work and to participate in future project activities.

The purpose of the demonstration project is to examine alternative construction methods which can be used in the unique situation of Devils Lake. The project shall also demonstrate where savings can be made by using the best possible construction techniques to prevent erosion over the longest period of time possible.

TRUCK SAFETY DEMONSTRATION

SEC. 136. This section authorizes the Secretary of Transportation to carry out a project in cooperation with the State of Idaho to determine what factors contribute to a high incidence of truck accidents. The factors examined should include weather conditions, sight distance, road curvature, roadway width, and gradient. A further purpose of the demonstration project is to analyze the benefit-cost ratio of certain safety improvements implemented to correct hazards contributing to truck accidents.

DEFINITION

SEC. 137. This section changes the definition of "construction" to permit Federal participation in State highway agency audit costs incurred in performing Federal-aid project related audits which directly benefit the Federal-aid highway program. State highway agency audit costs are not now eligible. Audit costs incurred in special studies or audits and investigations performed for management purposes that could not be shown to directly benefit the Federal-aid highway program would not be eligible for reimbursement.

REPORTS

SEC. 138. This section codifies the highway needs report submitted to the Congress every 2 years pursuant to section 3 of Public Law 89–139 and section 17 of the Federal-Aid Highway Act of 1968.

CONSTRUCTION BY STATES IN ADVANCE OF APPORTIONMENT

SEC. 139. This section amends the existing advance construction provision to permit construction by States of highway substitute and bridge projects in advance of apportionment of highway substitute and bridge funds apportioned under 23 U.S.C. 103(e)(4) and 144.

DESIGN AND CONSTRUCTION QUALITY ASSURANCE STUDY

SEC. 140. This section requests the Secretary of Transportation, the National Bureau of Standards, the American Society for Testing and Materials, and any other appropriate organizations to provide information on training and accreditation needs of testing facilities.

VENDING MACHINES ON THE INTERSTATE SYSTEM

SEC. 141. This section would permit vending machines on Interstate rights-of-way for the benefit of the traveling public without cost to the Federal Government. The facilities at which vending machines would be permitted include rest areas, weigh stations and visitor information areas. First priority is given under this section to Randolph/Sheppard Act agencies to operate such facilities.

RELOCATION OF UTILITY FACILITIES

SEC. 142. Subsection (a) of this section would amend the definition of "construction" to make clear that the relocation of utilities for safety purposes is eligible work for Federal reimbursement under title 23 of the United States Code.

Subsection (b) amends 23 U.S.C. 123, Relocation of Utility Facilities, to permit payment for utility relocations on any Federal-aid system or under any Federal-aid program and to provide that the Secretary may waive certain provisions of 23 U.S.C. 123(a) to allow Federal participation in costs incurred by the State in relocating utilities for purposes of eliminating hazards, then he determines that such a waiver facilitates the State's safety improvement program.

TECHNICAL AMENDMENTS

SEC. 143. This section makes technical changes to title 23.

ADVANCEMENT OF FEDERAL MATCH

SEC. 144. This provision authorizes that States may receive up to 100 percent of project costs from Federal apportionments until September 30, 1983. This provision is designed to help those States which will have non-Federal share matching problems because of the large increase in Federal funds available under this Act because of the gasoline tax increase.

Funds provided under this section shall come from the apportionments made under this program for fiscal year 1983 and must be repaid by September 30, 1984 or such amount will be deducted from apportionments made on October 1, 1984, and October 1, 1985. Funds deducted will be deducted from all categories on a per-category basis except for Interstate construction funds which will not be limited by this proposal.

GUARANTEED MINIMUM RETURN

SEC. 145. This provision provides contract authority from the Highway Trust Fund to assure that each State receives a minimum of 85 percent of its percentage payments into the Highway Trust Fund

through apportionment or allocation. The section creates a pot of money over and above funds authorized for regular Federal-aid Highway categories to insure this 85 percent minimum return. Funds authorized to be allocated under this section may be used on any Federal-aid category and are not subject to any obligation limitation imposed under this Act or any future Act.

VEHICLE WEIGHT LIMITATIONS

SEC. 146. This provision amends section 126 of title 23, United States Code, to establish a national uniform maximum weight per axle and by gross weight. The limits are set at 20,000 pounds for single axles, 34,000 pounds on a tandem axle and an overall gross weight of 80,000 pounds as limited by the bridge formula contained in section 127. This provision is designed to remove the burden on interstate commerce raised by the so-called "barrier states" along the Mississippi River.

The provision also clarifies the application of the "grandfather clauses" authorized by the Federal-Aid Highway Act of 195[illegible] and the Federal-Aid Highway Amendments of 1975. Under this provision States will determine the weight of vehicles and classes of vehicles eligible under the grandfather provision as it applies to their State. However, it is not the intention of the provision to allow any increases in weights but simply to clarify controversy with respect to the grandfather clauses.

INNOVATIVE TECHNOLOGIES

SEC. 147. This section authorizes an increase in the Federal share when a State uses innovative technologies in constructing a road or in an overlay is placed on an existing roadway. Regardless of which highway category a project is proposed for, the Federal share would be increased by 5 percent when recycled materials or commercially available additives are used in pavements. Use of such products are both energy efficient and extend the life of pavements.

The Committee recognizes that new techniques and United States patented products are now available in commercial quantities which both improve the energy efficiency and strength of pavement materials and prolong the life of these pavements. In allowing an increased Federal share in projects which use recycled materials or United States patented asphalt strengthening additives, the Committee provides a necessary incentive to the States to use these commercial products in the resurfacing and construction of our highways. These incentives are necessary because of the additional capital costs of these innovative products, but the Committee believes that these additional costs should be offset in the public interest because of proven longer pavement life cycles and lower maintenance costs. The Committee also acknowledges the need to obviate existing institutional barriers to the use of innovative products, and, therefore, recognizes that sole source procurement and the purchase of proprietary products and materials may be allowed as needed in the public interest.

The Committee notes the progress that has been achieved in the use of rubber recyled from tires in the reconstruction of our Nation's roads. Studies have proven that the life expectancy of a rehabilitation

project using the combination of asphalt with recycled tires is many times greater than that of asphalt alone. Thus, use of this combination results in a cost-savings to the Federal government over the long term. Because excise taxes from tires contribute directly to the Highway Trust Fund, funds available for those projects which utilize such substances or materials produced in substantial part from recycled rubber tires should be encouraged by increasing Federal participation in project costs.

ENERGY-IMPACTED ROADS

SEC. 148. This provision is intended to place greater emphasis on the improvement of energy-impacted roads. It does this by increasing the Federal share to 85 per centum for 3-R projects on Federal-aid routes which the Secretary has determined, at State requests, are energy-impacted. This provision allows the States to give priority to such projects in their annual program for Federal-aid funds and allows the Secretary to give priority to such projects in approving the State program of projects for a fiscal year.

DOWNTOWN CONGESTION DEMONSTRATION

SEC. 149. This section authorizes a demonstration project on the Federal-aid urban system to show how downtown congestion can be relieved by the construction of a high-level bridge over a segment of intercoastal waterway. $23 million is authorized in contract authority to carry out this provision.

Rollcall Votes During Committee Consideration

During consideration of this bill by the Environment and Public Works Committee, 8 rollcall votes were taken. Pursuant to Section 133 of the Legislative Reorganization Act of 1970 and the Rules of the Committee on Environment and Public Works, those votes are recorded below.

On December 7, 1982, Senator Symms moved adoption of an amendment proposed by Senators Stafford, Symms, Randolph, and Bentsen. The motion was adopted by a vote of 15 to 0, with Senators Stafford, Baker, Domenici, Chafee, Simpson, Abdnor, Symms, Gorton, Murkowski, Randolph, Bentsen, Burdick, Moynihan, Mitchell, and Baucus voting in the affirmative.

Also on December 7, 1982, Senator Chafee moved adoption of an amendment to the Clean Water Act. The motion was not agreed to by a vote of 7 to 9, with Senators Stafford, Baker, Domenici, Simpson, Abdnor, Symms, Gorton, Murkowski, and Bentsen voting in the negative. Voting in the affirmative on the motion were Senators Chafee, Randolph, Burdick, Hart, Moynihan, Mitchell, and Baucus.

On December 8, 1982, Senator Symms moved adoption of a truck weight amendment. The motion was not agreed to by a vote of 5 to 10, with Senators Stafford, Baker, Domenici, Chafee, Gorton, Murkowski, Burdick, Hart, Moynihan, and Mitchell voting in the negative. Senators Simpson, Abdnor, Symms, Randolph, and Baucus voted in the affirmative on the motion. Senator Symms then moved adoption of a substitute amendment; the motion was divided into two parts. The first part of the motion was adopted by a vote of 14 to 1, with Senators Baker, Domenici, Chafee, Simpson, Abdnor, Symms, Gorton, Murkowski, Randolph, Burdick, Hart, Moynihan, Mitchell, and Baucus voting in the affirmative. Senator Stafford voted in the negative on the first part of the motion. The second part of the motion was adopted by a vote of 9 to 1, with Senators Domenici, Simpson, Abdnor, Symms, Gorton, Murkowski, Randolph, Burdick, and Baucus voting in the affirmative and Senator Stafford voting in the negative.

Senator Moynihan moved adoption of an amendment on public works inventory. The motion failed for lack of a majority. The six members voting in the affirmative were Stafford, Randolph, Hart, Moynihan, Mitchell, and Baucus. Voting in the negative on the motion were Senators Baker, Domenici, Chafee, Abdnor, Symms, and Gorton.

Next, Senator Moynihan moved adoption of an amendment concerning the application of the Davis-Bacon Act to the Federal-Aid Highway Program. The motion was adopted by a vote of 10 to 4, with Senators Stafford, Domenici, Chafee, Randolph, Bentsen, Burdick, Hart, Moynihan, Mitchell, and Baucus voting in the affirmative. Those voting in the negative on the motion were Senators Simpson, Abdnor, Symms, and Gorton.

Senator Stafford proposed to report the bill from Committee. The motion was adopted by a vote of 16 to 0, with Senators Stafford, Baker, Domenici, Chafee, Simpson, Abdnor, Symms, Gorton, Murkowski, Randolph, Bentsen, Burdick, Hart, Moynihan, Mitchell, and Baucus voting in the affirmative.

Hearings

The Committee on Environment and Public Works conducted hearings on the Highway Bridge Replacement and Rehabilitation Program and the fiscal year 1983 budget for the Federal-aid highway program. Drew Lewis, Secretary of Transportation, and Ray Barnhart, Administrator of the Federal Highway Administration, testified at the fiscal year 1983 budget hearing. A separate series of hearings were held on highway program needs, revenues, and cost allocation issues.

The Subcommittee on Transportation conducted one day of hearings on S. 2315 in Washington, D.C. Testimony was received from two United States Senators, the Department of Transportation, State and local elected and appointed officials, industry representatives, and environmentalists. Issues discussed at the hearing included the Interstate 4R apportionment formula, rehabilitation needs, category consolidation, the bridge program apportionment formula, and the appropriate Federal participation in the Secondary, Urban and Safety programs.

The hearing record for S. 2315 is augmented by the hearing record for S. 1024, last year's Federal-aid highway bill. The Subcommittee on Transportation conducted 10 days of hearings on S. 1024 during 1981 in Washington, D.C.; Sioux Falls, South Dakota; Rapid City, South Dakota; Fargo, North Dakota; Denver, Colorado; Boise, Idaho; and Seattle, Washington.

Four days of hearings were held by the Subcommittee on Transportation in Washington, D.C., Salt Lake City, Utah, and Lewiston, Idaho on highway program and revenue issues and the allocation of highway costs among the various users of highways. Among those testfying were representatives of the Congressional Budget Office, Department of the Treasury, Department of Transportation, State and local elected and appointed officials, civil engineers, environmentalists, and industry and research groups.

EVALUATION OF REGULATORY IMPACT

Section 11(b)(1) of Rule XXVI of the Standing Rules of the Senate, requires committees to make an evaluation of the regulatory impact of the reported bill. In the opinion of the committee, it is necessary of the reported bill. In the opinion of the committee, it is necessary to dispense with the requirement of this section in order to expedite the business of the Senate.

COST OF LEGISLATION

Section 11(a) (1) and (2) of Rule XXVI of the Standing Rules of the Senate requires publication in the report of the committee's estimate of the costs of the reported legislation together with estimates prepared by any Federal agency. The reported bill provides a total authorization of $70 billion over a five year period.

There were no estimates prepared by any other Federal agency.

Section 403 of the Congressional Budget and Impoundment Control Act requires each report to contain a statement of the cost of the reported legislation prepared by the Congressional Budget Office. That statement did not reach the committee in time to be included in this report.

Changes In Existing Law

In the opinion of the Committee, it is necessary to dispense with the requirement of Section 12 of Rule XXVI of the Standing Rules of the Senate in order to expedite the business of the Senate.

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Calendar No. 1020

97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-686

AMENDING THE FEDERAL WATER POLLUTION CONTROL ACT

DECEMBER 16 (legislative day, NOVEMBER 30), 1982.—Ordered to be printed

Mr. STAFFORD, from the Committee on Environment and Public Works, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 7159]

The Committee on Environment and Public Works, to which was referred the act (H.R. 7159) to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH having considered the same, reports favorably thereon with an amendment and recommends that the act (as amended) do pass.

GENERAL STATEMENT

H.R. 7159, as amended, creates a new section 301(m) of the Clean Water Act to allow the Administrator of the Environmental Protection Agency the authority of approving National Pollutant Discharge Elimination System permits for two point sources which may fall below the national minimum performance standards. These two point sources belong to the bleached kraft pulp mill subcategory and are located on the Samoa Peninsula, near Eureka in Humboldt County, California. This limited authority, to allow the Administrator to modify effluent limits for the discharge of conventional pollutants from the two mills upon findings that receiving water quality is not and will not be adversely affected, is discretionary.

As described below, the amendments adopted by the Committee clarify the intent of the House-passed legislation that not only does a finding have to be made regarding the relationship of the discharge

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to receiving water quality, and a new determination has to be made by the Administrator each time the National Pollutant Discharge Elimination System permit comes up for renewal, but also that the issued permits may be revoked at any time if the pollutant limits established in the permit lead to lesser water quality, or if the owner-operators fail to fund research and development of other processes which would lead to the elimination of the discharge of pollutants.

A key component of the Clean Water Act is the mandatory requirement that all point sources within a particular industrial subcategory must install uniform effluent treatment technology regardless of the receiving water into which the discharge occurs. No deviation has occurred from the long held belief that this is the only regulatory scheme that will achieve the goal of clean water.

In this instance, however, the need to create a new section 301(m) was determined after it was firmly established that the point sources described above, and by the Committee amendments, are truly unique. For instance, in 1977 the Water Resources Control Board of California issued National Pollutant Discharge Elimination System permits to the mills which took into account that both discharges were into the marine environment, and in the issuance process concluded that:

> Based on the record before us, we (the Board) must conclude that there do not appear to be any environmental benefits which will be derived by requiring these dischargers to meet . . . (the) guideline limitations for BOB or pH.

This decision was later reversed by the Administrator of the Environmental Protection Agency on the grounds that receiving water quality is not allowed under the law to be considered in the issuance of a National Pollutant Discharge Elimination System permit. This is a correct interpretation of the law. Since that time the owner-operators have exhausted all administrative and legal avenues in an attempt to reverse the Administrator's decision.

Members of the Committee expressed concern over the possibility that this amendment might establish a precedent. Of particular concern are two paragraphs in a letter written to the chief House sponsor of H.R. 7159 by Ann M. Gorsuch, Administrator of the Environmental Protection Agency dated September 27, 1982. In part that letter states that:

> The situation of the two mills in your State clearly reflects a continuing national problem: the strict application of the Clean Water Act can, and does, result in treatment for treatment's sake. The technology-based approach embodied in the Act requires that all similar wastewater dischargers provide the same level of treatment even though there may be no adverse environmental consequences caused by a particular effluent. The fact that citizen groups, environmentalists, business representatives, and the State of California, itself, support a common solution for these mills, underscores the growing recognition that this is indeed a problem that needs to be dealt with on a national level.
>
> This Administration has gone on record opposing treatment for treatment's sake. It serves no useful purpose, in

many cases it can be extremely expensive, and it is misleading in terms of environmental progress being achieved. Because we are committed to the concept of avoiding needless treatment, we support your amendment.

Historically the Senate Environment and Public Works Committee and the Congress as a whole have rejected the argument that application of the Clean Water Act results in treatment for treatment's sake. The significant deterioration of the Nation's waters during the decades of unprecedented economic growth in the post World War II period has been reserved only by the imposition of uniform technological requirements on point sources of pollution. The Committee continues to reject the argument that the Clean Water Act requires pollution control beyond that necessary to protect our waters. The Act's objective is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. That objective depends on a control strategy which minimizes discharges of pollutants from all sources regardless of where situated.

It is the intention of the Committee that this action not constitute a precedent. The amendments adopted by the Committee are intended to clarify the bill as non-precedential and limited to the unique circumstance of the two mills, and to codify the commitments made by the owner-operators of both mills. H.R. 7159 will not be viewed as a precedent nor as a basis for the Environment and Public Works Committee to review the circumstances of other individual point sources seeking a modification of the Clean Water Act or for any general mechanism allowing modification of the uniform treatment requirements of the Act on the basis of effect on receiving water quality.

It is also important to note that H.R. 7159 provides the Administrator the discretion to consider modifications of these two National Pollutant Discharge Elimination System permits. The Administrator should thoroughly review each application made by the dischargers before granting these modifications. Guidance for the Administrator in establishing the procedures for considering permit modifications may be found in section 301(h) and section 316(a) of that Act. Both provisions of the Act establish positive and thorough showings before the National Pollutant Discharge Elimination System permit modification sought is granted. It is anticipated that the showing required to be made by new section 301(m) will be at least as rigorous.

EXPLANATION OF AMENDMENTS

The reported bill, as amended, would contain the following provisions:

A new subsection (m) is added to section 301 of the Clean Water Act. The subsection authorizes the Administrator of the Environmental Protection Agency to issue a permit which modifies certain requirements of the law with respect to discharges of biological oxygen demand and pH by an industrial discharger into deep waters of the territorial seas, if the applicant demonstrates and the Administrator finds the following:

First, the facility for which the modification is sought must be covered at the time of enactment by National Pollutant Discharge

Elimination System permit number CA0005894 or CA0005282. The effect of this requirement is to restrict the relief granted by this bill to only the two facilities in question.

Second, the energy and environmental costs of meeting the law's current requirements must exceed by an unreasonable amount the benefits to be obtained. As passed by the House of Representatives, this subparagraph allowed "economic" costs to be taken into account. The Committee substituted "energy" for "economic" to assure that the balance struck was between competing environmental concerns, including those associated with increased energy demands.

Third, an applicant must establish a system for monitoring the impact of its discharges on a representative sample of aquatic biota. As passed by the House of Representatives, this requirement applied only "to the extent practicable." The Committee struck this language to make it clear that the requirement imposed by this subparagraph is not one which can be avoided, waived, or diminished.

Fourth, the modified requirements cannot result in any additional requirements on any other point or non-point source.

Fifth, there may not be any new or substantially increased discharges from the point source of the pollutant to which the modification applies above the volume of discharge specified in the initial permit.

Sixth, the discharge must be into waters where there is strong tidal movement as well as other hydrological and geological characteristics. These must be sufficient not only to assure achievement of the requirements of this subsection, but of section 101(a)(2) of the Clean Water Act, which states:

> (2) it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983.

Seventh, the applicant must accept as a condition to the permit a contractual obligation to use up to $250,000 per year for each of ten years for research and demonstration of water pollution control technology. This research and development must include closed-cycle technology which does not discharge pollutants. This requirement was not included in the bill passed by the House of Representatives. It was added to assure that at such time as the unique authority of this bill expires, some investment had been made in the development of pollution-free technology. Closed-cycle technology has been demonstrated for kraft pulp mills. This will aid in the adaptation of such approaches to existing mills. The obligation to develop and demonstrate such technology is that of the industries who create their potential risk to the environment, not the general public.

Eighth, the facts and circumstances must present a unique situation which, if relief is granted, will not establish a precedent for the relaxation of the requirements of the Clean Water Act applicable to similarly situated discharges. This requirement was not included in the bill passed by the House of Representatives. The Committee added this subparagraph to make it clear that other dischargers cannot use this bill as a basis for similar relief for themselves, either individually

or generically. A similarly situated discharge is one from an industrial discharger located on a body of water the quality of which is alleged not to be diminished by its effluent.

Ninth, no owner or operator of a facility comparable to that of the applicant situated in the United States can have demonstrated that it would be put at a competitive disadvantage to the applicant (or the parent company or any subsidiary thereof) as a result of the issuance of a permit under this subsection. This requirement was not included in the bill passed by the House of Representatives. It was added by the Committee to assure that the Clean Water Act remains competitively neutral. The burden of establishing an adverse competitive effect is on the competitor.

These conditions must be met and are subject to a finding by the Administrator. The bill passed by the House of Representatives required a level of formality by the Administrator less than a finding. The Committee amendments increase the burden on the Administrator and the applicants to assure the opportunity for full and complete public disclosure and judicial review.

Once the conditions are satisfied and the findings are arrived at, a permit may be issued. The term of the permit may not exceed five years. Five subsequent permits may also be issued, for terms not to exceed five years each. Each of the permits must be preceded by the compilation of a record and the affirmative finding of the Administrator as to the satisfaction of all requirements of this subsection.

The bill passed by the House of Representatives did not make the requirement for full reconsideration of the facts at each permit renewal as explicit as the Committee believed necessary. Nor did that bill provide for eventual termination of the relief. The Committee limited the duration of the Administrator's authority to make it clear that even in this unique situation a discharger will not be granted the privilege to pollute in perpetuity.

After issuing a permit, the Administrator may nonetheless terminate it if there has been a decline in the quality of the receiving waters. To exercise the discretionary authority to terminate, the Administrator need not make a showing or determine that there is a cause and effect relationship between the decline and the discharge of the permit holder. It is only necessary that the decline have occurred.

Further, if there is any decline in water quality to which the effluent from a source with a permit under this provision contributes, the Administrator must terminate the permit. This is a non-discretionary duty. The bill passed by the House of Representatives did not require the permits to be terminated upon such a showing, nor did it authorize a court to make such a determination.

ROLLCALL VOTES

Section 7(c) of rule XXVI of the Standing Rules of the Senate requires publication of any rollcall votes. The bill was ordered reported by a vote of 12 to 2, with Senators Abdnor, Baker, Baucus, Bentsen, Chafee, Domenici, Gorton, Moynihan, Murkowski, Randolph, Simpson, and Symms voting in the affirmative and Senators Mitchell and Stafford voting negative.

EVALUATION OF REGULATORY IMPACTS

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes the following evaluation of regulatory impact of the reported bill.

The bill does not change the number or groups or classes of individuals or businesses presently subject to regulation under the Clean Water Act.

No significant net increase in paperwork is anticipated as a result of the Committee bill.

COST OF LEGISLATION

Paragraph 11(a) of rule XXVI of the Standing Rules of the Senate requires cost estimates and comparisons of costs to be incurred in carrying out the bill to be published in reports. In accordance with section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared a report on the costs to be incurred by the Federal Government resulting from the enactment of this bill. Such cost estimates follow:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., December 15, 1982.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 7159, a bill to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH, as ordered reported by the Senate Committee on Environment and Public Works, December 14, 1982.

Based on this review, it is expected that no significant additional costs to states or the federal government would be incurred as a result of enactment of this bill.

On September 23, 1982, CBO prepared a cost estimate for the House companion version of this bill. No additional cost to the government was estimated to result from that bill.

Sincerely,

RAYMOND C. SCHEPPACH
(For Alice M. Rivlin, Director).

MINORITY VIEWS OF MESSRS. STAFFORD AND MITCHELL

While we appreciate and agree with the attempts to assure that this unique situation does not become the basis for an attack on the technology-based standards of the Clean Water Act, we cannot agree with this bill. If relief for the two pulp and paper mills in question is appropriate, it need not take the form found in this bill. What other type of relief is appropriate we cannot say, because there were no Senate hearings on this proposal nor is any Member of either the Committee or its staff personally familiar with the facts. This legislation is based upon assertions made by interested parties, not upon a finding of the facts and circumstances.

We also disagree that there is a need to act this late in the Congress. Each of these mills is on a court-ordered schedule of compliance which leaves ample time for consideration of this case during the next Congress when the Clean Water Act will undergo comprehensive review. The facilities are receiving preferential treatment not only in terms of the substance of this bill, but in terms of its timing as well. We cannot agree with either proposition.

ROBERT T. STAFFORD.
GEORGE J. MITCHELL.

CHANGES IN EXISTING LAW

Section 12 of Rule XXVI of the Standing Rules of the Senate requires publication of any changes in existing law made by the reported bill. In the opinion of the Committee, it is necessary to dispense with this requirement in order to expedite the business of the Senate.

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Calendar No. 1027

97TH CONGRESS, 2d Session } SENATE { REPORT No. 97-687

PROTECTION OF FOREIGN DIPLOMATIC MISSIONS

DECEMBER 17 (legislative day, NOVEMBER 30), 1982.—Ordered to be printed

Mr. STAFFORD, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 2845]

The Committee on Environment and Public Works, to which was referred the bill (S. 2845) to amend section 202(7)(C) of title 3, United States Code, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

GENERAL STATEMENT

Background

Public Law 91-217, approved on March 19, 1970, expanded the duties of the White House Police to include the day-to-day protection of foreign diplomatic missions in the Washington, D.C. Metropolitan Area. The name of the force, which functions within the Treasury Department, was changed to the Executive Protective Service. A subsequent enactment in 1977 changed the name to the United States Secret Service Uniformed Division (SSUD).

The 1970 law was a response to increased street crime in the Washington area and a recognition that, under international law and custom, it is the obligation of a host government to assure the safety of foreign diplomats in its territory. The assignment of Federal Police officers to this duty was intended to improve security at embassies and to allow the Metropolitan Police to concentrate on street crime.

Public Law 91-217 further authorized the President to assign the Executive Protective Service to protect diplomatic missions located outside the Washington area on a case-by-case basis. Public Law 94-196, approved December 31, 1975, required the Executive Protective Service to protect foreign diplomatic missions in cities outside Washington, D.C., where there are twenty or more full-time missions, and:

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(1) where there is an extraordinary protective need,

(2) where the affected metropolitan area requests assistance, and

(3) when the extraordinary protective need arises from a visit to, or occurs at, a permanent mission to an international organization of which the United States is either a member or invited to participate as an observer. Protection during visits may be extended to places of temporary domicile.

Public Law 94–196 further authorizes the Secretary of the Treasury to use and reimburse State and local services, equipment, facilities, and personnel to provide the protection called for in the law. An annual reimbursement authorization of $3,500,000 is established.

Passage of Public Law 94–196 primarily reflected heightened concern over the security of diplomatic missions to the United Nations in New York City. Under the international convention establishing the headquarters of the United Nations in New York, the United States Government undertook to assure protection of diplomatic missions posted to that international organization. Increasing instances of political terrorism during the late 1960's and early 1970's increased the need for such protection and added to the burden of the New York City Police Department (NYPD). The NYPD had provided protection to mission buildings and diplomats without reimbursement either from the United States or the United Nations ever since the establishment of the United Nations headquarters in New York City in 1947. The Committee stated at that time that ". . . local communities should no longer be forced to bear the full cost of what is essentially a national obligation."

Public Law 94–196 gave the Secretary of the Treasury the alternative of posting SSUD personnel in New York or of reimbursing the City of New York for some of the costs of using local police to protect United Nations missions. A Treasury Department analysis estimated that reimbursing New York City for the services of one patrolman was approximately one-half the cost of assigning a SSUD officer to the same work. The Treasury has chosen the reimbursement alternative and New York has received a total amount of about $15.5 million since the Public Law 94–196 was passed.

Need for the Legislation

Unfortunately, since the passage of Public Law 94–196, acts of terror directed against diplomats have increased around the world, as Americans know all too well. Diplomatic activities in this country and particularly in New York have not been immune.

Up until 1980, New York City had a perfect safety record with respect to the personal security of diplomats and their families. In the 34 years following the establishment of the United Nations, no diplomat had been assassinated or abducted and official processions of foreign dignitaries had moved through the city and departed in safety. This enviable record ended in the fall of 1980 when a Cuban diplomat was shot to death on a city street.

Since December 1979 there have been 25 terrorist bombings in New York City associated with diplomatic property, including attacks against the Cuban, Egyptian, Soviet, Turkish, Mexican, and United States Missions, the Yugoslav Bank, Aeroflot, vehicles owned by

Cuban, Soviet, and Nigerian diplomats, the Honduran Consulate, and the Egyptian Tourist Office. In five of these instances. armed devices were removed prior to detonation.

This activity against diplomatic establishments in New York City is consistent with increasing acts of terror against diplomatic communities all around the world. Since 1975 there have been 51 attacks on Embassies or other diplomatic establishments representing 30 countries in 39 cities. Six attacks have been made upon United States Embassies and five American Ambassadors have been killed during this period.

New York's diplomatic community of 32,000 is the largest in the world. It is estimated that there are more than 1,000 disruptive or terrorist groups operating in the United States, many of them based in New York. A basic tactical police response to security hazards that threaten the safety of diplomats is to post police officers at threatened missions or other vulnerable diplomatic properties. These fixed posts are maintained, usually on an around-the-clock basis, as long as the threat is deemed viable. During 1981, the NYPD maintained coverage at 54 separate diplomatic locations.

In 1981, exclusive of the 36th General Assembly, there were 18 visits to New York by 13 foreign dignitaries that required the security attention of the NYPD. The security arrangements needed on these occasions were extremely complex.

Federal reimbursement to New York City for costs incurred in both routine fixed post assignments and extraordinary protective need operations is authorized under revised Treasury regulations promulgated in the spring of 1980. This reimbursement underwrites only the very special and extraordinary costs associated with protecting United Nations missions and foreign dignitaries. These expenses are acknowledged in Public Law 94–196 as a national obligation. New York City does not receive reimbursement for protecting the United Nations building, the United States Mission to the United Nations, diplomatic residences, foreign commercial offices in New York, for maintaining order at demonstrations outside the United Nations, or for the efforts of the NYPD's bomb disposal or intelligence units. Furthermore, the city's claims are reviewed in detail by the Treasury Department, and about 35 percent have been disallowed each year.

In all areas of diplomatic protection New York City's claims are now averaging approximately $6 to $7 million per year. The Treasury Department testified before the House Public Works Committee that if the city of New York were not to provide the protection of foreign dignitaries and the Federal Government were to assume this expense, it would cost $20.1 million in the first year and $14.5 million annually, thereafter. Furthermore, those estimates do not take into account the additional costs which would be involved for motorcade and certain other police protection not reimbursable to New York under current law.

Pending current claims by the NYPD for diplomatic security total $19.7 million, of which the Treasury Department has indicated at least $13 million will be approved. The items covered include fixed post coverage for 1974–78 and 1981, 17 extraordinary United Nations visits, and protection of the Cuban Ambassador. Furthermore, by September 30, 1982, an additional amount of $6.5 million in allowable

expenses will have been incurred for fixed posts and those supplemental costs associated with the forthcoming disarmament conference.

However, under the fiscal year 1982 congressional appropriation for this purpose, which in turn is constrained by the $3.5 million annual authorization for the program, only $1.88 million remain. Thus, as of September 30, 1982, over $17.7 million in reimbursable expenses will have been incurred for which there is currently no Federal authorization.

Summary of the Legislation

S. 2845 would amend existing law by increasing from $3.5 million to $7 million the annual authorization for reimbursement, beginning in fiscal year 1983, made to State and local governments in connection with protection of foreign diplomatic missions to international organizations. It would also clarify the activities for which such reimbursements can be made by adding language stating that protection provided for motorcades and places visited by a foreign dignitary would be reimbursable. This latter language parallels provisions allowing reimbursement for motorcade protection that appeared in Public Law 96–74, the fiscal year 1980 Treasury Department Appropriations Act and in subsequent continuing resolutions.

Additionally, the legislation authorizes appropriations of $17.7 million for reimbursable obligations entered into prior to fiscal year 1983 and currently outstanding. This authorization is for funds additional to appropriations already made since 1975.

The precise amount which New York City would receive would be subject each year to Treasury Department approval of valid claims for reimbursement, just as has been the practice in the past. The amount would also be subject to appropriations.

The bill would also direct the Secretaries of the Treasury, State, and Navy to consult on and report to the Congress on the desirability of placing a U.S. Marine Corps security detachment at the U.S. Missions to the United Nations. Marine Corps guards provide security at U.S. embassies throughout the world, but at the U.S. Mission to the United Nations in New York, Federal Protective Service officers of the U.S. General Services Administration are assigned to those duties.

Cost of the Legislation

Section 11(a) of rule XXVI of the Standing Rules of the Senate requires publication of the committee's estimate of the cost of reported legislation, together with estimates prepared by any Federal agency.

The bill would increase the annual authorization for reimbursement (subject to appropriation) from $3.5 million to $7 million, beginning in fiscal year 1983. Additionally, the legislation authorizes appropriations of $17.7 million for reimbursable obligations entered into prior to fiscal year 1983.

Section 403 of the Congressional Budget and Impoundment Control Act requires that an estimate of the cost of the bill as reported be prepared by the Congressional Budget Office. That estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., December 17, 1982.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 2845, a bill to amend section 202(7)(C) of title 3, United States Code.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2845.

2. Bill title: A bill to amend section 202(7)(C) of title 3, United States Code.

3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works, December 16, 1982.

4. Bill purpose: S. 2845 extends the protective services of the United States Secret Service Executive Protective Service to motorcades of and places visited by foreign diplomats in metropolitan areas of the United States other than the District of Columbia where there are located twenty or more diplomatic missions headed by full-time officers.

For reimbursing state and local governments for their expenses incurred in protecting diplomatic missions during and after fiscal year 1983, the bill authorizes annual appropriations of $7 million (increased from $3.5 million). For reimbursing New York City for similar expenses incurred prior to fiscal year 1983, the bill authorizes an appropriation of $17.7 million. None of these funds could be obligated prior to October 1, 1982.

5. Estimated cost to the Federal Government:

	Millions
Authorization level:	
Fiscal year:	
1983	$24.7
1984	7.0
1985	7.0
1986	7.0
1987	7.0
Estimated outlays:	
Fiscal year:	
1983	23.0
1984	7.0
1985	7.0
1986	7.0
1987	7.0

The costs of this bill fall within budget function 750.

Basis of estimate: For the purpose of this estimate, it is assumed that the full amounts authorized are appropriated early in fiscal year

1983. Although $17.7 million is authorized for retroactive payments to New York City, and outlays of that amount are assumed in the above estimate, the Department of the Treasury may not certify expenses in that amount as eligible for reimbursement. (Approximately $14 million is expected to be certified.) This reimbursement will be made in one payment during fiscal year 1983. The rate of outlays from the $7 million permanent authorization is relatively unpredictable, due to the uncertainty of security and protection needs. Based on recent experience, however, CBO estimates that about $5 million will be expended in 1983 and $7 million in each of the fiscal years 1984 through 1987. No significant costs are expected to be incurred for the consultation and report on the placement of Marine security guard services within the U.S. mission to the United Nations.

6. Estimated cost to State and local governments: The expenditures by the federal government will result in corresponding receipts to state and local governments, as shown in the following table.

Estimated receipts:	
Fiscal year:	*Millions*
1983	$23
1984	7
1985	7
1986	7
1987	7

This estimate is based on the same assumptions used in estimating the costs to the federal government.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 14, 1982, CBO transmitted a cost estimate for H.R. 6254, as ordered reported by the House Committee on Public Works and Transportation. The two bills have identical authorization and outlay estimates.

9. Estimate prepared by: Kathleen Gramp.

10. Estimate approved by:

C. G. Nuckols
(For James L. Blum,
Assistant Director for Budget Analysis).

Rollcall Votes During Committee Consideration

Section 133 of the Legislative Reorganization Act of 1970 requires that any rollcall votes be announced in reports accompanying legislation. The Committee ordered the bill favorably reported by a polled vote of 15 to 0.

Evaluation of Regulatory Impact

In compliance with paragraph 11(b)(1) of Rule XXVI of the Standing Rules of the Senate, the Committee believes that this legislation will cause no change in regulatory activity by the Federal Government, or by private business.

Changes in Existing Law

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman:

TITLE 3, UNITED STATES CODE

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CHAPTER 3—PROTECTION OF THE PRESIDENT; UNITED STATES SECRET SERVICE UNIFORMED DIVISION

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§ 202. United States Secret Service Uniformed Division, establishment, control, and supervision; privileges, powers, and duties

There is hereby created and established a permanent police force, to be known as the "United States Secret Service Uniformed Division". Subject to the supervision of the Secretary of the Treasury, the United States Secret Service Uniformed Division shall perform such duties as the Director, United States Secret Service, may prescribe in connection with the protection of the following: (1) the White House in the District of Columbia; (2) any building in which Presidential offices are located; (3) the President and members of his immediate family; (4) foreign diplomatic missions located in the metropolitan area of the District of Columbia; (5) the temporary official residence of the Vice President and grounds in the District of Columbia; (6) the Vice President and members of his immediate family; (7) foreign diplomatic missions located in metropolitan areas (other than the District of Columbia) in the United States where there are located twenty or more such missions headed by fulltime officers, except that such protection shall be provided only (A) on the basis of extraordinary protective need, (B) upon request of the affected metropolitan area, and (C) when the extraordinary protective need arises in association with a visit to or occurs at a permanent mission to an international organization of which the United States is a member or an observer mission invited to participate in the work of such organization, provided that such protection *may be provided for motorcades and at other places associated with such a visit and* may be extended at places of temporary domicile in connection with such a visit; and (8) foreign diplomatic missions located in such areas in the United States, its territories and possessions, as the President, on a case-by-case basis, may direct. The members of such force shall possess privileges and powers similar to those of the members of the Metropolitan Police of the District of Columbia.

* * * * * * *

§ 208. Reimbursement of State and local governments

(a) In carrying out the functions pursuant to section 202(7), the Secretary of Treasury may utilize, with their consent, on a reimbursable basis, the services, personnel, equipment, and facilities of State and local governments, and is authorized to reimburse such State and local governments for the utilization of such services, personnel, equipment, and facilities. The authority of this subsection may be transferred by the President to the Secretary of State.

[(b) There is authorized to be appropriated not more than $3,500,000 under this section for the purposes of reimbursement for any fiscal year, to remain available for expenditure as provided in appropriation Acts.]

(b) There is authorized to be appropriated, in addition to such sums as have been heretofore appropriated under this section—

(1) $700,000 for each fiscal year beginning after September 30, 1982, for the payment of reimbursement obligations entered into under subsection (a) after such date; and

(2) $17,700,000 for the payment of reimbursement obligations entered into under subsection (a) before October 1, 1982.

Amounts appropriated under this subsection shall remain available until expended.

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